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Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Report of the Sixth Committee

Rapporteur: Mr. Drahoslav **Štefánek** (Slovakia)

I. Introduction

1. The item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" was included in the provisional agenda of the fifty-fifth session of the General Assembly in accordance with Assembly resolution 53/96 of 8 December 1998.

2. At its 9th plenary meeting, on 11 September 2000, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 13th, 27th and 28th meetings, on 20 October and on 13 and 14 November 2000. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/55/SR.13, 27 and 28).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General (A/55/173 and Corr.1 and 2 and Add.1);

(b) Letter dated 15 September 2000 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General (A/55/398-S/2000/883).

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II. Consideration of draft resolution A/C.6/55/L.15

5. At the 27th meeting, on 13 November, the representative of Sweden, on behalf of Argentina, Australia, Belgium, Bulgaria, Cameroon, Canada, Cyprus, the Czech Republic, Denmark, Germany, Greece, Hungary, Iceland, Italy, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Swaziland, Sweden, the former Yugoslav Republic of Macedonia and Ukraine, subsequently joined by Angola, Austria, Bolivia, Chile, Costa Rica, Croatia, Finland, Guinea, Kenya, the Netherlands, the Republic of Moldova, the Russian Federation, South Africa, Spain and the United Kingdom of Great Britain and Northern Ireland, introduced a draft resolution entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" (A/C.6/55/L.15).

6. At its 28th meeting, on 14 November, the Committee adopted draft resolution A/C.6/55/L.15 without a vote (see para. 8).

7. After the adoption of the draft resolution, the representative of Israel made a statement in explanation of position (see A/C.6/55/SR.28).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its resolutions 32/44 of 8 December 1977, 34/51 of 23 November 1979, 37/116 of 16 December 1982, 39/77 of 13 December 1984, 41/72 of 3 December 1986, 43/161 of 9 December 1988, 45/38 of 28 November 1990, 47/30 of 25 November 1992, 49/48 of 9 December 1994, 51/155 of 16 December 1996 and 53/96 of 8 December 1998,

Having considered the report of the Secretary-General[1] on the status of the Protocols[2] Additional to the Geneva Conventions of 1949[3] and relating to the protection of victims of armed conflicts,

Thanking Member States and the International Committee of the Red Cross for their contribution to the report of the Secretary-General,

Convinced of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for these rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the possibility of making use of the International Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I, and recalling that the International Fact-Finding Commission may, where necessary,

[1] A/55/173, Corr.1 and 2 and Add.1.

[2] United Nations, *Treaty Series*, vol. 1125, Nos. 17512 and 17513.

[3] Ibid., vol. 75, Nos. 970-973.

facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and the Protocol,

Stressing also the need for consolidating the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions of 1949 and the two Additional Protocols,

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions of 1949 and the two Additional Protocols,

Recalling that the twenty-sixth International Conference of the Red Cross and Red Crescent endorsed the recommendations of the Intergovernmental Group of Experts on the Protection of War Victims, including the recommendation that the depositary of the Geneva Conventions of 1949 should organize periodic meetings of States parties to the Conventions to consider general problems regarding the application of international humanitarian law,

Welcoming the adoption of a Second Protocol[4] to the 1954 Hague Convention[5] for the Protection of Cultural Property in the Event of Armed Conflict, in The Hague on 26 March 1999,

Noting the celebration in 1999 at The Hague and at St. Petersburg of the centennial of the first International Peace Conference which highlighted the importance of the Geneva Conventions for the protection of victims of armed conflicts and their additional Protocols,

Acknowledging the fact that the Rome Statute of the International Criminal Court, adopted on 17 July 1998,[6] includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Noting that international humanitarian law has been an important topic in the United Nations Decade for International Law, which came to an end in 1999, fifty years after the adoption of the Geneva Conventions, and acknowledging the usefulness of discussing in the General Assembly the status of international humanitarian law instruments relevant to the protection of victims of armed conflicts,

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[4] United Nations Educational, Scientific and Cultural Organization document HC/1999/7.

[5] United Nations, *Treaty Series*, vol. 249, No. 3511.

[6] A/CONF.183/9.

1. *Appreciates* the virtually universal acceptance of the Geneva Conventions of 1949,[3] and notes the trend towards a similarly wide acceptance of the two additional Protocols of 1977;[4]

2. *Appeals* to all States parties to the Geneva Conventions of 1949 that have not yet done so to consider becoming parties to the additional Protocols at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. *Calls upon* all States parties to the additional Protocols to ensure their wide dissemination and full implementation;

6. *Notes with appreciation* the Plan of Action adopted by the twenty-seventh International Conference of the Red Cross and Red Crescent, in particular the reiteration of the importance of universal adherence to treaties on humanitarian law and their effective implementation at the national level;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective;

8. *Welcomes* the advisory service activities of the International Committee of the Red Cross in supporting efforts undertaken by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments;

9. *Welcomes* the increasing numbers of national commissions or committees for the implementation of international humanitarian law and for promoting the incorporation of such treaties into national law and disseminating the rules of international humanitarian law;

10. *Welcomes* the adoption of the Optional Protocol[7] to the Convention on the Rights of the Child[8] on the involvement of children in armed conflicts;

11. *Requests* the Secretary-General to submit to the General Assembly at its fifty-seventh session a report on the status of the additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

12. *Decides* to include in the provisional agenda of its fifty-seventh session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

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[7] Resolution 54/263, annex I.

[8] Resolution 44/25, annex.